

104TH CONGRESS
2D SESSION

H. R. 4006

To reform the coastwise, intercoastal, and noncontiguous trade shipping laws,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

Mr. SMITH of Michigan introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform the coastwise, intercoastal, and noncontiguous
trade shipping laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Coastal Shipping Competition Act of 1996”.

6 (b) FINDINGS.—The Congress finds the following:

7 (1) Efficient, competitive, broadly available wa-
8 terborne cargo transportation service is an essential
9 component of a national intermodal transportation

1 system, and such services should be promoted by the
2 United States.

3 (2) In the last several decades, the size of the
4 active United States domestic deepwater fleet has
5 shrunk substantially, to a total of only 126 ocean-
6 going vessels and 59 vessels in the Great Lakes
7 today.

8 (3) The result has been shipping shortages,
9 higher prices, and significant commercial transpor-
10 tation inefficiencies, all of which can be alleviated,
11 without any cost to the taxpayer, by increasing com-
12 petition in domestic deepwater shipping.

13 (4) Such inefficiencies undermine the competi-
14 tive position of a broad range of American busi-
15 nesses, particularly in potential domestic markets,
16 versus their foreign competition. These shipping
17 shortages and higher-than-market prices have led to
18 the loss of American jobs to overseas competitors
19 able to purchase transportation services on the inter-
20 national market.

21 (5) Lack of access to adequate deepwater com-
22 mercial waterborne transportation alternatives sup-
23 presses economic activity in an amount of more than
24 \$10,000,000,000 annually and causes the loss of as-

1 sociated tax revenue, according to a study by the
2 United States International Trade Commission.

3 (6) American mariners and water carriers are
4 dedicated to providing the high-quality service that
5 their customers deserve, but flexibility in capital in-
6 vestment is needed to acquire the modern equipment
7 essential to satisfy the current and potential demand
8 for superior deep-sea domestic cargo transportation
9 service.

10 (7) Eliminating international capital investment
11 restrictions on the deep-sea domestic transportation
12 industry will help American ocean transportation
13 companies to provide the world class service Amer-
14 ican manufacturers, farmers, consumers, and tax-
15 payers deserve.

16 (8) Similarly, permitting domestic transpor-
17 tation service providers to purchase their vessels on
18 the international market without penalty will lower
19 their operating expenses, creating savings which they
20 can pass on to their customers in the form of lower
21 prices and improved efficiency.

22 (9) Allowing American domestic deepwater com-
23 mercial carriers to comply with appropriate inter-
24 national operating and construction standards to
25 which the United States is a party through treaties

1 and conventions will further lower operating ex-
2 penses and reduce the cost of the service provided by
3 those companies.

4 (10) Rationalizing the tort and liability provi-
5 sions governing the maritime industry will help re-
6 duce the insurance costs of employers and diminish
7 the need for costly and contentious litigation to set-
8 tle worker injury claims.

9 (11) Liberalizing the regulations currently gov-
10 erning the domestic deep-sea transportation of cargo
11 will encourage a renaissance in the Nation's water-
12 borne coastal trades, reducing highway congestion,
13 road damage, and air and noise pollution, and will
14 substantially contribute to the ability of American
15 commercial enterprise to compete against foreign
16 companies.

17 (12) Foreign shipowner income derived from
18 coastwise trade is United States-source income for
19 purposes of Federal tax laws.

20 **SEC. 2. MISCELLANEOUS AMENDMENTS TO DEFINITIONS IN**
21 **TITLE 46, UNITED STATES CODE.**

22 Section 2101 of title 46, United States Code, is
23 amended—

1 (1) in each of paragraphs (1) through (45), by
2 striking the period at the end and inserting a semi-
3 colon;

4 (2) in paragraph (46), by striking the period at
5 the end and inserting “; and”;

6 (3) by striking paragraph (3a) and inserting
7 the following:

8 “(3a) ‘citizen of the United States’ means—

9 “(A)(i) a national of the United States, as
10 defined in section 101(a)(22) of the Immigra-
11 tion and Nationality Act (8 U.S.C.
12 1101(a)(22));

13 “(ii) a corporation established under the
14 laws of the United States or under the laws of
15 a State, territory, district, or possession of the
16 United States, that has—

17 “(I) a president or other chief execu-
18 tive officer and chairman of the board of
19 directors of that corporation who are citi-
20 zens of the United States; and

21 “(II) a board of directors, on which a
22 majority of the number of directors nec-
23 essary to constitute a quorum are citizens
24 of the United States;

“(iii) a partnership existing under the laws of a State, territory, district, or possession of the United States that has at least 1 general partner who is a citizen of the United States;

“(iv) a trust that has at least 1 trustee who is a citizen of the United States; or

“(v) an association, joint venture, limited liability company or partnership, or other entity that has at least 1 member who is a citizen of the United States; but

“(B) such term does not include—

“(i) with respect to a person or entity under clause (ii), (iii), or (v) of subparagraph (A), any parent corporation, partnership, or other person (other than an individual) or entity that is a second-tier owner (as that term is defined by the Secretary) of the person or entity involved; or

“(ii) with respect to a trust under clause (iv), any beneficiary of the trust.”;

(4) by inserting after paragraph (4) the following new paragraph:

“(4a) ‘coastwise trade’—

“(A) subject to subparagraph (B), means the transportation by water of merchandise or

1 passengers, the towing of a vessel by a towing
2 vessel, or dredging operations embraced within
3 the coastwise laws of the United States—

4 “(i) between points in the United
5 States (including any district, territory, or
6 possession of the United States);

7 “(ii) on the Great Lakes (including
8 any tributary or connecting waters of the
9 Great Lakes and the Saint Lawrence Sea-
10 way);

11 “(iii) on the subjacent waters of the
12 Outer Continental Shelf subject to the
13 Outer Continental Shelf Lands Act (43
14 U.S.C. 1331 et seq.); and

15 “(iv) in the noncontiguous trade; and

16 “(B) does not include the activities speci-
17 fied in subparagraph (A) on the navigable wa-
18 ters included in the inland waterways trade ex-
19 cept for activities specified in subparagraph (A)
20 that occur on mixed waters.”;

21 (5) by inserting after paragraph (11c) the fol-
22 lowing new paragraph:

23 “(11d) ‘foreign qualified vessel’ means a ves-
24 sel—

25 “(A) registered in a foreign country; and

1 “(B) the owner, operator, or charterer of
2 which is a citizen of the United States or—

3 “(i) has qualified to engage in busi-
4 ness in a State and has an agent in that
5 State upon whom service of process may be
6 made;

7 “(ii) is subject to the laws of the
8 United States in the same manner as any
9 foreign person doing business in the Unit-
10 ed States; and

11 “(iii) either—

12 “(I) employs vessels in the coast-
13 wise trade regularly or from time to
14 time as part of a regularly scheduled
15 freight service in the foreign ocean
16 (including the Great Lakes) trades of
17 the United States; or

18 “(II) offers passage or cruises on
19 passenger vessels the owner, operator,
20 or charterer employs in the coastwise
21 trade or in the coastwise trade as part
22 of those cruises offered in the foreign
23 ocean (including the Great Lakes)
24 trades of the United States.”;

1 (6) by redesignating paragraph (14a) as para-
2 graph (14b);

3 (7) by inserting after paragraph (14) the fol-
4 lowing new paragraph:

5 “(14a) ‘inland waterways trade’—

6 “(A) means—

7 “(i) the transportation of merchandise
8 or passengers on the navigable rivers, ca-
9 nals, lakes other than the Great Lakes, or
10 other waterways inside the Boundary Line;

11 “(ii) the towing of barges by towing
12 vessels in the waters specified in clause (i);
13 or

14 “(iii) engaging in dredging operations
15 in the waters specified in clause (i); and

16 “(B) includes any activity specified in sub-
17 paragraph (A) that is conducted in mixed wa-
18 ters.”;

19 (8) by redesignating paragraph (15a) as para-
20 graph (15b);

21 (9) by inserting after paragraph (15) the fol-
22 lowing:

23 “(15a) ‘mixed waters’ means—

24 “(A) the harbors and ports on the coasts
25 and Great Lakes of the United States; and

1 “(B) the rivers, canals, and other water-
2 ways tributary to the Great Lakes or to the
3 coastal harbors and coasts of the United States
4 inside the Boundary Line,
5 that the Secretary of Transportation determines to
6 be navigable by oceangoing vessels.”;

7 (10) by redesignating paragraph (17a) as para-
8 graph (17b);

9 (11) by inserting after paragraph (17) the fol-
10 lowing:

11 “(17a) ‘noncontiguous trade’ means transpor-
12 tation by water of merchandise or passengers, or
13 towing by towing vessels—

14 “(A) between—

15 “(i) a point in the 48 continental
16 States and the District of Columbia; and

17 “(ii) a point in Hawaii, Alaska, Puer-
18 to Rico, Guam, the Virgin Islands, Amer-
19 ican Samoa, the Northern Mariana Is-
20 lands, or any other noncontiguous territory
21 or possession of the United States, as em-
22 braced within the coastwise laws of the
23 United States; or

24 “(B) between 2 points described in sub-
25 paragraph (A)(ii).”;

1 (12) in paragraph (21)(A)—

2 (A) in clause (ii), by striking “or” after
3 the semicolon;

4 (B) in clause (iii), by inserting “or” after
5 the semicolon; and

6 (C) by adding at the end the following new
7 clause:

8 “(iv) an individual who—

9 “(I) is a member of the family or
10 a guest of the owner or charterer; and

11 “(II) is not a passenger for
12 hire;”;

13 (13) by striking paragraph (40) and inserting
14 the following:

15 “(40) ‘towing vessel’ means any commercial
16 vessel engaged in, or that a person intends to use to
17 engage in, the service of—

18 “(A) towing, pulling, pushing, or hauling
19 alongside (or any combination thereof); or

20 “(B) assisting in towing, pulling, pushing,
21 or hauling alongside;” and

22 (14) by inserting after paragraph (40) the fol-
23 lowing new paragraphs:

24 “(40a) ‘towing of a vessel by a towing vessel be-
25 tween points’ means attaching a towing vessel to a

1 towed vessel (including any barge) at 1 point and re-
 2 leasing the towed vessel from the towing vessel at
 3 another point, regardless of the origin or ultimate
 4 destination of either the towed vessel or the towing
 5 vessel; and

6 “(40b) ‘transportation of merchandise or pas-
 7 sengers by water between points’ means, without re-
 8 gard to the origin or ultimate destination of the
 9 merchandise or passengers involved—

10 “(A) in the case of merchandise, loading
 11 merchandise at 1 point and permanently un-
 12 loading the merchandise at another point; or

13 “(B) in the case of passengers, embarking
 14 passengers at 1 point and permanently dis-
 15 embarking the passengers at another point.”.

16 **SEC. 3. DOCUMENTATION.**

17 (a) DEFINITIONS.—Section 12101(b)(2) of title 46,
 18 United States Code, is amended—

19 (1) by striking paragraph (2) and inserting the
 20 following:

21 “(2) ‘license’, ‘enrollment and license’, ‘license
 22 for the coastwise (or coasting) trade’, ‘enrollment
 23 and license for the coastwise (or coasting) trade’,
 24 and ‘enrollment and license to engage in the foreign
 25 and coastwise (or coasting) trade on the northern,

1 northeastern, and northwestern frontiers, otherwise
2 than by sea’ mean a coastwise endorsement provided
3 in section 12106.”;

4 (2) by striking paragraph (3); and

5 (3) by redesignating paragraph (4) as para-
6 graph (3).

7 (b) VESSELS ELIGIBLE FOR DOCUMENTATION.—Sec-
8 tion 12102(a) of title 46, United States Code, is amend-
9 ed—

10 (1) by striking all that precedes paragraph (5)
11 and inserting the following:

12 “(a) A vessel of at least 5 net tons that is not reg-
13 istered under the laws of a foreign country or that is not
14 titled in a State is eligible for documentation if—

15 “(1)(A) the vessel is owned by an individual
16 who is a citizen of the United States, or a corpora-
17 tion, association, trust, joint venture, partnership,
18 limited liability company, or other entity that is a
19 citizen of the United States; and

20 “(B) the owner of the vessel is capable of hold-
21 ing title to a vessel under the laws of the United
22 States or under the laws of a State;”;

23 (2) by redesignating paragraphs (5) and (6) as
24 paragraphs (2) and (3), respectively.

1 (c) COASTWISE ENDORSEMENTS.—Section 12106 of
2 title 46, United States Code, is amended to read as fol-
3 lows:

4 **“§ 12106. Coastwise endorsements and certificates**

5 “(a) IN GENERAL.—A certificate of documentation
6 may be endorsed with a coastwise endorsement for a vessel
7 that is eligible for documentation.

8 “(b) ELIGIBILITY.—

9 “(1) IN GENERAL.—Any of the following vessels
10 may be issued a certificate to engage in the coast-
11 wise trade if the Secretary of Transportation makes
12 a finding, pursuant to information obtained and fur-
13 nished by the Secretary of State, that the govern-
14 ment of the nation of registry of such vessel extends
15 reciprocal privileges to vessels of the United States
16 to engage in the transportation of merchandise or
17 passengers (or both) in its coastwise trade:

18 “(A) A foreign qualified vessel (as defined
19 in section 2101(11d)).

20 “(B) A vessel of foreign registry—

21 “(i) if the vessel is subject to a demise
22 or bareboat charter, for the duration of
23 that charter, to a person or entity that
24 would be eligible to document that vessel if

1 that person or entity were the owner of the
2 vessel; or

3 “(ii) that engages irregularly in the
4 coastwise trade of the United States.

5 “(2) VESSEL ENGAGING IRREGULARLY IN THE
6 COASTWISE TRADE.—For purposes of this sub-
7 section, a vessel engages irregularly in the coastwise
8 trade of the United States if that vessel—

9 “(A) during any 60-day period does not
10 make, in the aggregate, more than 4 calls to
11 United States ports; and

12 “(B) during any calendar year does not
13 make, in the aggregate, more than 6 calls to
14 United States ports.

15 “(c) EMPLOYMENT IN THE COASTWISE TRADE.—
16 Subject to the applicable laws of the United States regu-
17 lating the coastwise trade and trade with Canada, only
18 a vessel with a certificate of documentation endorsed with
19 a coastwise endorsement or with a certificate issued under
20 subsection (b) may be employed in the coastwise trade.”.

21 (d) INLAND WATERWAYS ENDORSEMENTS.—Section
22 12107 of title 46, United States Code, is amended to read
23 as follows:

1 **“§ 12107. Inland waterways endorsements**

2 “A certificate of documentation may be endorsed with
3 an inland waterways endorsement for a vessel that—

4 “(1) is eligible for documentation; and

5 “(2)(A) was built in the United States; or

6 “(B) was not built in the United States; but
7 was—

8 “(i) captured in war by citizens of the
9 United States and lawfully condemned as prize;

10 “(ii) adjudged to be forfeited for a breach
11 of the laws of the United States; or

12 “(iii) is qualified for documentation under
13 section 4136 of the Revised Statutes (46 App.
14 U.S.C. 14).”.

15 (e) LIMITATIONS ON OPERATIONS AUTHORIZED BY
16 CERTIFICATES.—Section 12110(b) of title 46, United
17 States Code, is amended—

18 (1) by striking “coastwise trade” and inserting
19 “coastwise trade or inland waterways trade”; and

20 (2) by striking “that trade” and inserting
21 “those trades”.

1 **SEC. 4. TRANSPORTATION OF MERCHANDISE IN THE**
2 **COASTWISE AND INLAND WATERWAYS**
3 **TRADES.**

4 (a) IN GENERAL.—Section 27 of the Merchant Ma-
5 rine Act, 1920 (46 U.S.C. App. 883) is amended to read
6 as follows:

7 **“SEC. 27. PROHIBITION.**

8 “No merchandise, including merchandise owned by
9 the United States Government, a State (as defined in sec-
10 tion 2101 of title 46, United States Code), or a political
11 subdivision of a State, and including material without
12 value, shall be transported by water, on penalty of forfeit-
13 ure of the merchandise (or a monetary amount not to ex-
14 ceed the value of the merchandise, as determined by the
15 Secretary of the Treasury, or the actual cost of the trans-
16 portation, whichever is greater, to be recovered from any
17 cosigner, seller, owner, importer, consignee, agent, or
18 other person that transports or causes the merchandise
19 to be transported by water)—

20 “(1) in the coastwise trade, in any vessel other
21 than—

22 “(A) a vessel documented with a coastwise
23 endorsement under section 12106(a) of title 46,
24 United States Code; or

25 “(B) a vessel that has been issued coast-
26 wise certification under section 12106(b) of title

1 46, United States Code, that is in effect for en-
 2 gaging in the transportation of merchandise; or
 3 “(2) in the inland waterways trade in any vessel
 4 other than a vessel documented with an inland wa-
 5 terways endorsement under section 12107 of title
 6 46, United States Code.”.

7 (b) REPEAL.—Section 27A of the Merchant Marine
 8 Act, 1920 (46 App. U.S.C. 883–1) is repealed.

9 **SEC. 5. TRANSPORTATION OF PASSENGERS.**

10 (a) IN GENERAL.—Section 8 of the Act of June 19,
 11 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289) is
 12 amended to read as follows:

13 **“SEC. 8. PROHIBITION.**

14 “No passengers shall be transported by water, on
 15 penalty of \$200 for each passenger so transported or the
 16 actual cost of the transportation, whichever is greater, to
 17 be recovered from the vessel so transporting the pas-
 18 senger—

19 “(1) in the coastwise trade, in any vessel other
 20 than—

21 “(A) a vessel documented with a coastwise
 22 endorsement under section 12106 of title 46,
 23 United States Code; or

24 “(B) a vessel that has been issued a coast-
 25 wise certification under section 12106(b) of title

1 46, United States Code, that is in effect for en-
 2 gaging in the transportation of merchandise;
 3 and

4 “(2) in the inland waterways trade, in any ves-
 5 sel other than a vessel documented with an inland
 6 waterways endorsement under section 12107 of title
 7 46, United States Code.”.

8 (b) REPEALS.—The following provisions are repealed:

9 (1) The Act of April 26, 1938 (52 Stat. 223,
 10 chapter 174; 46 U.S.C. App. 289a).

11 (2) Section 12(22) of the Maritime Act of 1981
 12 (46 U.S.C. App. 289b).

13 (3) Public Law 98–563 (46 U.S.C. App. 289c).

14 **SEC. 6. TOWING AND SALVAGING OPERATIONS.**

15 Section 4370(a) of the Revised Statutes (46 U.S.C.
 16 App. 316(a)) is amended to read as follows:

17 “(a)(1) No vessel (including any barge), other than
 18 a vessel in distress, may be towed—

19 “(A) in the coastwise trade by any vessel other
 20 than—

21 “(i) a vessel documented with a coastwise
 22 endorsement under section 12106(a) of title 46,
 23 United States Code; or

24 “(ii) a vessel registered in a foreign coun-
 25 try, if the Secretary of the Treasury finds, pur-

1 suant to information furnished by the Secretary
2 of State, that the government of that foreign
3 country and the government of the country of
4 which each ultimate owner of the towing vessel
5 is a citizen extend reciprocal privileges to ves-
6 sels of the United States to tow vessels (includ-
7 ing barges) in the coastal waters of that coun-
8 try; or

9 “(B) in the inland waterways trade by any ves-
10 sel other than a vessel documented with an inland
11 waterways endorsement under section 12107 of title
12 46, United States Code.

13 “(2)(A) The owner and master of any vessel that
14 tows another vessel (including a barge) in violation of this
15 section shall each be liable to the United States Govern-
16 ment for a civil penalty in an amount not less than \$250
17 and not greater than \$1,000. The penalty shall be enforce-
18 able through the district court of the United States for
19 any district in which the offending vessel is found.

20 “(B) A penalty specified in subparagraph (A) shall
21 constitute a lien upon the offending vessel, and that vessel
22 shall not be granted clearance until that penalty is paid.

23 “(C) In addition to the penalty specified in subpara-
24 graph (A), the offending vessel shall be liable to the Unit-
25 ed States Government for a civil penalty in an amount

1 equal to \$50 per ton of the measurement of the vessel
2 towed in violation of this section, which shall be recover-
3 able in a libel or other enforcement action conducted
4 through the district court for the United States for the
5 district in which the offending vessel is found.”.

6 **SEC. 7. DREDGING OPERATIONS.**

7 The first section of the Act of May 28, 1906 (34 Stat.
8 204, chapter 2566; 46 U.S.C. App. 292), is amended to
9 read as follows:

10 **“SECTION 1. VESSELS THAT MAY ENGAGE IN DREDGING.**

11 “(a) IN GENERAL.—A vessel may engage in dredging
12 operations—

13 “(1) on the navigable waters included in the
14 coastwise trade, if—

15 “(A) the vessel is documented with a coast-
16 wise endorsement under section 12106(a) of
17 title 46, United States Code; or

18 “(B) the vessel is registered in a foreign
19 country and the Secretary of the Treasury
20 finds, pursuant to information furnished by the
21 Secretary of State, that the government of that
22 foreign country and each government of the
23 country of which an ultimate owner of the ves-
24 sel is a citizen extend reciprocal privileges to
25 vessels of the United States to engage in dredg-

1 ing operations in the coastal waters of that
2 country; or

3 “(2) on the navigable waters included in the in-
4 land waterways trade, if—

5 “(A) the vessel is documented with an in-
6 land waterways endorsement under section
7 12107 of title 46, United States Code; or

8 “(B) the vessel would be qualified to be
9 documented under the laws of the United
10 States with a coastwise endorsement under sec-
11 tion 12106(a) of title 46, United States Code,
12 except that the vessel was not built in the Unit-
13 ed States.

14 “(b) PENALTIES.—When a vessel is operated in
15 knowing violation of this section, that vessel and its equip-
16 ment are liable to seizure by and forfeiture to the United
17 States Government.”.

18 **SEC. 8. CITIZENSHIP AND TRANSFER PROVISIONS.**

19 (a) CITIZENSHIP OF CORPORATIONS, PARTNERSHIPS,
20 AND ASSOCIATIONS.—Section 2 of the Shipping Act, 1916
21 (46 U.S.C. App. 802) is amended—

22 (1) in subsection (a)—

23 (A) by inserting a period after “possession
24 thereof”; and

1 (B) by striking all that follows the period
 2 inserted in subparagraph (A) through the end
 3 of the subsection; and
 4 (2) by striking subsection (c).

5 (b) APPROVAL OF TRANSFER OF REGISTRY OR OP-
 6 ERATION UNDER AUTHORITY OF A FOREIGN COUNTRY OR
 7 FOR SCRAPPING IN A FOREIGN COUNTRY; PENALTIES.—
 8 Section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)
 9 is amended—

10 (1) by striking subsection (c) and inserting the
 11 following:

12 “(c) Except as provided in section 611 of the Mer-
 13 chant Marine Act, 1936 (46 U.S.C. App. 1181) and sec-
 14 tion 31322(a)(1)(D) of title 46, United States Code, a
 15 person may not, without the approval of the Secretary of
 16 Transportation—

17 “(1) place under foreign registry—

18 “(A) a documented vessel; or

19 “(B) a vessel with respect to which the last
 20 documentation was made under the laws of the
 21 United States;

22 “(2) operate a vessel referred to in paragraph
 23 (1) under the authority of a foreign government; or

1 “(3) scrap or transfer for scrapping a vessel re-
2 ferred to in paragraph (1) in a foreign country.”;
3 and

4 (2) by striking subsection (d) and inserting the
5 following:

6 “(d)(1) A person that places a documented vessel
7 under foreign registry, operates that vessel under the au-
8 thority of a foreign country, or scraps or transfers for
9 scrapping that vessel in a foreign country—

10 “(A) in violation of this section and knowing
11 that that placement, operation, scrapping, or trans-
12 fer for scrapping is a violation of this section shall,
13 upon conviction, be fined under title 18, United
14 States Code, imprisoned for not more than 5 years,
15 or both; or

16 “(B) otherwise in violation of this section shall
17 be liable to the United States Government for a civil
18 penalty of not more than \$10,000 for each violation.

19 “(2) A documented vessel may be seized by, and for-
20 feited to, the United States Government if that vessel is
21 placed under foreign registry, operated under the author-
22 ity of a foreign country, or scrapped or transferred for
23 scrapping in a foreign country in violation of this sec-
24 tion.”.

1 **SEC. 9. LABOR PROVISIONS.**

2 (a) LIABILITY FOR INJURY OR DEATH OF MASTER
3 OR CREW MEMBER.—Section 20(a) of the Act of March
4 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. App.
5 688(a)), is amended—

6 (1) by inserting “(1)” after “(a)”;

7 (2) by adding at the end of paragraph (1) (as
8 designated under paragraph (1) of this subsection)
9 the following new sentence: “In an action brought
10 under this subsection against a defendant employer
11 that does not reside or maintain an office in the
12 United States (including any territory or possession
13 of the United States) and that engages in any enter-
14 prise that makes use of 1 or more ports in the Unit-
15 ed States (as defined in section 2101 of title 46,
16 United States Code), jurisdiction shall be under the
17 district court most proximate to the place of the oc-
18 currence of the personal injury or death that is the
19 subject of the action.”; and

20 (3) by adding at the end the following new
21 paragraph:

22 “(2)(A) The employer of a master or member of the
23 crew of a vessel—

24 “(i) may, at the election of the employer, par-
25 ticipate in an authorized compensation plan under

1 the Longshore and Harbor Workers' Compensation
2 Act (33 U.S.C. 901 et seq.); and

3 “(ii) if the employer makes an election under
4 clause (i), notwithstanding section 2(3)(G) of the
5 Longshore and Harbor Workers' Compensation Act
6 (33 U.S.C. 902(3)(G)), shall be subject to that Act.

7 “(B) If an employer makes an election, in accordance
8 with subparagraph (A), to participate in an authorized
9 compensation plan under the Longshore and Harbor
10 Workers' Compensation Act—

11 “(i) a master or crew member employed by that
12 employer shall be considered to be an employee for
13 the purposes of that Act; and

14 “(ii) the liability of that employer under that
15 Act to the master or crew member, or to any person
16 otherwise entitled to recover damages from the em-
17 ployer based on the injury, disability, or death of the
18 master or crew member, shall be exclusive and in
19 lieu of all other liability.”.

20 (b) MINIMUM REQUIREMENTS.—All vessels, whether
21 documented in the United States or not, operating in the
22 coastwise trade of the United States shall be subject to
23 minimum international labor standards for seafarers
24 under international agreements in force for the United

1 States, as determined by the Secretary of Transportation
2 on the advice of the Secretaries of Labor and Defense.

3 **SEC. 10. REGULATIONS REGARDING VESSELS.**

4 (a) APPLICABLE MINIMUM REQUIREMENTS.—Except
5 as provided in paragraph (2), the minimum requirements
6 for vessels engaging in the transportation of cargo or mer-
7 chandise in the United States coastwise trade shall be the
8 recognized international standards in force for the United
9 States (as determined by the Secretary of the department
10 in which the Coast Guard is operating, in consultation
11 with any other official of the Federal Government that the
12 Secretary determines to be appropriate).

13 (b) CONSISTENCY IN APPLICATION OF STAND-
14 ARDS.—In any case in which any minimum requirement
15 for vessels referred to in paragraph (1) is inconsistent with
16 a minimum that is applicable to vessels that are docu-
17 mented in a foreign country and that are admitted to en-
18 gage in the transportation of cargo and merchandise in
19 the United States coastwise trade, the standard applicable
20 to United States documented vessels shall be deemed to
21 be the standard applicable to vessels that are documented
22 in a foreign country.

23 (c) MINIMUM REQUIREMENTS FOR VESSELS.—As
24 used in this subsection, the term “minimum requirements
25 for vessels” means, with respect to vessels (including Unit-

1 ed States documented vessels and foreign documented ves-
2 sels), all safety, manning, inspection, construction, and
3 equipment requirements applicable to those vessels in
4 United States coastwise passenger trade, to the extent
5 that those requirements are consistent with applicable
6 international law and treaties to which the United States
7 is a signatory.

8 **SEC. 11. ENVIRONMENT.**

9 All vessels, whether documented under the laws of the
10 United States or not, regularly engaging in the United
11 States coastwise trade shall comply with all applicable
12 United States and international environmental standards
13 in force for the United States.

14 **SEC. 12. GENERAL REQUIREMENTS.**

15 Each person or entity that is not a citizen of the
16 United States, as defined in section 2101(3a) of title 46,
17 United States Code, that owns or operates vessels that
18 regularly engage in the United States domestic coastwise
19 trade shall—

- 20 (1) establish an office or place, and qualify
21 under the laws of that place, to do business in the
22 United States;
23 (2) name an agent upon whom process may be
24 served;

1 (3) abide by all applicable laws of the United
2 States, including applicable environmental, labor,
3 and tax laws; and

4 (4) post evidence of—

5 (A) financial responsibility in amounts as
6 considered necessary by the Secretary of Trans-
7 portation for the business activities of that per-
8 son or entity; and

9 (B) compliance with applicable United
10 States laws.

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